THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14983 OF 2007

ORAL ORDER:

This writ petition is filed seeking a declaration that the order passed by the Chief Metropolitan Magistrate, Criminal Courts, Hyderabad, dated 11-6-2007 in Crl.M.P.No.2518 of 2007 under Section 14 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (for short "the Act") as arbitrary and illegal.

It is not in dispute that the petitioner availed financial assistance from the 1st respondent bank by creating equitable mortgage in respect of the premises bearing Municipal No.1-1-213, Chikkadapally, Hyderabad belonging to the 2nd respondent as security. This writ petition is filed contending inter alia that since there was no proper service of demand notice under Section 13 (2) of the Act the entire proceedings are vitiated and therefore the impugned order purportedly made under Section 14 of the Act is illegal and liable to be set aside. It is also alleged that no notice as required under Section 13 (4) of the Act was issued at all.

At the outset, it is to be noted that Section 17 of the Act provides for an efficacious alternative remedy but any person aggrieved by action of the secured creditor in deciding to take possession of the property before the Debts Recovery Tribunal having jurisdiction in the matter as was held by the Division bench in W.P.Nos.26663 and 27553 of 2005. The said remedy is also available as against the order passed under Section 14 of the Act.

In the light of the said alternative remedy available under the Act, it is not open to the petitioner to invoke the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India without exhausting the said alternative remedy.

Accordingly, the Writ Petition is disposed of granting leave and

liberty to the petitioner to work out the alternative remedy as available under law for redressal of his grievance. No costs.

(G. ROHINI, J.)

13th July, 2007.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.14983 OF 2007

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13th July, 2007.

Between:

K. Vijaya Kumar Chanakya. ..Petitioner.

And

United Bank of India,
Bholakpur Branch, Hyderabad, represented by its
Chief Manager and Authorized Officer and another. .. Respondents.